

## REMARKS

The rejection of claims 1-18 under 35 USC 102 for anticipation by the cited Garvison, et al. patent is traversed by the rail or railing system, e.g. panels as balustrade, of original claim 1 and previously presented independent claim 9. The mere disclosure of rails in the patent does not make it a rail or railing system, as claimed, and no such system is disclosed or even suggested by, for example, including the words "railing" or "balustrade" anywhere in the patent.

In order to emphasize the system originally claimed, the claims are amended into Jepson or improvement form so that the system structure of the preamble clearly becomes part of the claim. *MPEP* 2111.02 I.

New dependent claims 19 and 20 are also added to exclude the multilayers of the patent from the sandwich claimed.

The rejection of claims 1-18 under 35 USC 103 for obviousness from the cited Hari and Dran patent publications is traversed by the rail or railing system or original claim 1 and previously presented independent claim 9 in combination with the sandwich structure thereof. The Hari patent publication discloses a rail or railing system with balustrade solar panels, but the panels are spaced by an air gap as clearly shown in Fig. 2, and not sandwiched, as claimed.

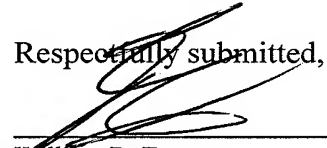
**PRIOR ART MUST BE CONSIDERED IN ITS  
ENTIRETY, INCLUDING DISCLOSURES THAT TEACH  
AWAY FROM THE CLAIMS** *MPEP* 2141.02 VI (emphasis  
original)

The Dran patent is, therefore, cited for a sandwich panel, as claimed, but makes no disclosure or suggestion of using the panel in the rail or railing system that makes up the whole claimed invention. Therefore, there is no rational underpinning for selecting this panel contrary to the

teaching of the Hari patent to reconstruct the whole claimed invention, which still is considered (*MPEP* 2141.02 I), except hindsight from the applicant's disclosure, which still is not permitted.

... [R]ejections on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc.*, Fed. Reg. October 10, 2007, 57526, 57528-9.

Respectfully submitted,



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